

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 134 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

PRADYUMAN RAMANLAL MEHTA

Appearance:

MR.D.N.PATEL, ADDL.PUBLIC PROSECUTOR for Petitioner

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.L.DAVE

Date of decision: 03/08/98

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The State has appealed against the judgement and order dated 26.10.1997 of the learned Additional Sessions Judge, Mehsana, acquitting the respondent for the offence under Section 306, read with Section 34 of the Indian Penal Code.

2. The prosecution case was that the respondents

were publishing defamatory articles containing false allegations against Narsinhbhai Chaudhary in connection with the running of a primary school by him. These articles were published in the daily "UTTAR GUJARAT EXPRESS" of which the respondent No.2 (who was the original accused No.2), was the editor. According to the informant who is the son of the deceased Narsinhbhai, these articles were defamatory and threatening and written with a view to take over the possession of the school building. It is also the prosecution case that on 4th August, 1994, the respondents had given threats to Narsinhbhai and harassed him, as a result of which on 5th August, 1994, in the evening at about 5.00 P.M., Narsinhbhai who could not bear the harassment meted out to him by the respondents, committed suicide by consuming poison. According to the prosecution, therefore, the respondents had abetted the commission of suicide of Narsinhbhai in furtherance of the common intention of all the respondents.

3. The trial Court found that the prosecution had not established that Narsinhbhai had committed suicide because of any instigation or aiding or facilitating commission of suicide. The trial Court observed that the news item, which was produced at Ex.20, published in the said Newspaper was in form of information and that the trial Court was not concerned with its defamatory nature. It was held that if such news caused any anguish to the deceased and if he committed suicide by reading the said news in the Newspaper, it cannot be said that the news published on 27.6.1994 amounted to abetment of suicide which Narsinhbhai committed on 5.8.1994.

4. Section 306 of the Indian Penal Code reads as under:-

"306. Abetment of suicide.-- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

5. The meaning of the word "abetment" emerges from Section 107, which reads as under:-

"107. Abetment of a thing.-- A person abets the doing of a thing, who --

First.-- Instigates any person to do that thing;
or

Secondly.-- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.-- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.-- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act."

6. In the context of the facts of the present case, where defamatory articles are said to have been published in a daily of which the respondent No.2 was the editor, one has to examine whether the suicide said to have been committed by Narsinhbhai on reading of the articles published which were defamatory of him would amount to abetment by the respondents to enable Narsinhbhai to commit suicide. In the present case "doing of a thing" is the suicide and the question is, can it be said that by publishing the articles the respondents had abetted that doing of the thing i.e. suicide? For that purpose, firstly one has to examine whether there was any instigation by the respondents to Narsinhbhai to commit suicide i.e. "to do that thing" as per the language of Section 107 of the IPC. Furthermore, it has to be seen whether the respondents had engaged in any conspiracy for the doing of that thing namely for making Narsinhbhai commit suicide; and finally, whether the respondents or

any of them intentionally aided, by any act or illegal omission, the commission of suicide by Narsinhbhai.

The word "abetment" occurring in Section 306 of the IPC is to be construed in the light of its meaning occurring in Section 107 of the IPC because when the same statute gives a meaning to the expression, then that expression should be given that meaning in the provisions appearing therein, unless a contrary intention is expressed or necessarily implied.

7. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering in to conspiracy for the doing of that thing. It cannot be said that by publication of the articles, which are said to be of defamatory character, in a daily Newspaper, the respondent No.2 editor or the other respondents who are also said to have published those articles meant to instigate or intentionally aid the commission of suicide by Narsinhbhai. The reaction against an article published can be different from different people who read it. A person may get enraged and retaliate on read it and commit suicide. The possible reaction would not be known before a defamatory statement is published as it will depend upon the nature and sensitivity of a person. Therefore, the reaction to a defamatory article which cannot be predicted will not be attributable as an intention to illegally aiding or instigating the suicide by the person concerned. In our view, more active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 of the Indian Penal Code.

The cases where people gave ghee to the widow which she poured over the fire and burnt herself, where the accused induced a woman to get herself to burn alongwith the body of her deceased husband and with that object they made her sit on the pyre, where persons had joined a funeral procession were aiding the widow to commit "Sati" and similar such cases where there is abetment within the meaning of Section 107 in the commission of suicide by a person the Courts have held that the accused were guilty of abetment of suicide. But these cases are different from the present case where only defamatory articles are said to have been published and there is no abetment in commission of suicide by any of the respondents.

In this view of the matter, we agree with the reasoning of the trial Court in reaching its conclusions for acquitting the respondents and the appeal is summarily dismissed.

*/Mohandas